

**REVIEW OF LEGISLATION**

Follow-up questions posed by the European Communities and their member States to Egypt

Addendum

By means of a communication from the Permanent Mission of the European Commission, dated 6 March 2002, the Secretariat has received copies of the following questions that the European Communities and their member States have communicated to Egypt. These questions follow up Egypt's responses to initial questions circulated in document IP/C/W/278/Add.1.

A. GENERAL PROVISIONS

In the responses to the questions initially posed by the European Communities and their Member States on many occasions reference is made to a new/modified Law which is still in draft form. In April 2001 an informal draft on the Proposed Shura Council Changes in the IPR Code was circulated amongst the WTO Members. Please state when it is expected that the amendments to the existing IPR Code will be implemented. Please state whether the amendments still concern the same ones as those that circulated in April 2001.

B. TRADEMARKS

Follow-up question to question 12:

In Article 91 of the new draft IP Code, it is said that the trademark registration may be revoked for failure to make genuine use of the mark in Egypt in relation to the specified goods or services in any three year period after its registration. Please describe what use constitutes 'genuine use'. Please explain whether resumed use after an uninterrupted period of three years of non-use, may lead to a revival of the exclusive rights.

Follow-up questions:

A. Article 68 of the new draft IP Code lays down the absolute grounds for refusal of trademarks. Can the applicant, in relation to a sign which is not inherently distinctive, invoke acquired distinctiveness through use (second to last recital Article 15.1 of the TRIPS Agreement)? Please explain how Article 23.2 of the TRIPS Agreement has been implemented in the trademark section of the new draft IP Code.

B. Article 69 of the new IP Code deals with the protection of well-known marks. Please confirm that in order to benefit from a protection, the well-known marks should at least be registered in one of

the WTO Member States. Please explain how this is compatible with Article 16.2 of the TRIPS Agreement where such a pre-condition of registration is not necessary. Please explain whether, in order to benefit from protection under the new draft IP Code, a well-known mark should also be used in Egypt.

C. GEOGRAPHICAL INDICATIONS

Follow-up question to question 15:

Please explain whether (i) only reputed ("famous") Geographical Indications are protected, and (ii) how Article 23.2 of the TRIPS Agreement is implemented in your legislation.

Follow-up question to question 16:

Please explain the meaning of "affecting its promotion" within the Egyptian definition of Geographical Indications.

Follow-up question to question 17:

Could you clarify how and which specific pieces of evidence are required to the applicant in order to ensure that the product, whose name is to be protected, is linked to the territory?

Follow-up question to question 19:

Could you please explain how Article 23.2 of the TRIPS Agreement is implemented in your legislation?

H. PROTECTION OF UNDISCLOSED INFORMATION

Follow-up question to question 46:

How does Egypt interpret the words "protecting data against unfair commercial use" of Article 39.3 of the TRIPS Agreement? Does this article prevent the Egyptian regulatory authorities from using data or from relying on data of a registered patent or non-patent protected product in examining similar products from generic manufacturers during a maximum five (5) years?

---